

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/27/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Peter Barca (608) 266-5504**

By/Representing: **Matt Egerer**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Barca@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Addmission of prior testimony in revocation hearing

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**Instructions:**

Redraft 07 AB 431

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 03/25/2009	jdyer 03/26/2009		_____ _____			
/1			rschluet 03/26/2009	_____ _____	sbasford 03/26/2009	mbarman 05/18/2009	

FE Sent For: **NONE**

<END>

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/?	rryan	1/3/26 jld					
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FE Sent For:

<END>

**Ryan, Robin**

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**From:** Egerer, Matt  
**Sent:** Thursday, February 26, 2009 2:40 PM  
**To:** Ryan, Robin  
**Subject:** Barca - 07 AB 431

Hello,

Representative Barca would like Assembly Bill 431 from the previous session re-drafted. It had been drafted by our predecessor Representative Kreuser.

Thanks,

Matt Egerer  
Office of Representative Peter Barca  
608.266.5504

In 3/25/09

stays

**2007 ASSEMBLY BILL 431**

RMNR

2009 BILL

July 3, 2007 - Introduced by Representatives KREUSER, HIXSON, NELSON, HRAYCHUCK, MUSSER, PETROWSKI, BERCEAU, BIES, SEIDEL, TOWNSEND, BOYLE and SHERIDAN, cosponsored by Senators PLALE, HANSEN and LASSA. Referred to Committee on Corrections and Courts.

AN ACT *to create* 302.113 (9) (dm), 302.114 (9) (dm), 304.06 (3b) and 973.10 (2r) of the statutes; **relating to:** admitting prior testimony of a felony victim at a probation, parole, or extended supervision *revocation* hearing.

***Analysis by the Legislative Reference Bureau***

Under current law, a person is entitled to an administrative hearing on whether the person's probation, parole, or extended supervision may be revoked. The person has a right to due process with respect to the revocation hearing, but the rules of evidence that apply to court proceedings do not necessarily apply to revocation hearings.

Also under current law, a person who has been charged with committing a felony is entitled to a preliminary examination at which the court must determine whether there is probable cause to believe that the defendant committed the felony. Witness testimony may be taken at both revocation hearings and preliminary examinations.

This bill provides that, if the Department of Corrections initiates proceedings to revoke a person's probation, parole, or extended supervision because the person has committed a new felony, the felony victim's testimony from the preliminary examination regarding the felony is admissible at the hearing on revocation of probation, parole, or extended supervision. The bill further provides that, if the victim testified at a preliminary examination regarding the felony and if a record of the testimony is available, a party to the revocation hearing may not subpoena the

**ASSEMBLY BILL 431**

victim to appear at the revocation hearing<sup>✓</sup> unless that party shows good cause for requiring the victim's appearance.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

① SECTION 1. 302.113 (9) (dm) of the statutes is created to read:

② (em) 302.113 (9) (dm) A felony victim's testimony from a preliminary examination<sup>✓</sup> regarding the felony is admissible in any administrative hearing held under par. (am)<sup>✓</sup> to determine whether a person on extended supervision violated the conditions of extended supervision by committing the felony. If such testimony is available, a party to the administrative hearing may not subpoena the victim to appear at the administrative hearing<sup>✓</sup> unless the party shows good cause for requiring the victim's appearance.<sup>✓</sup>

9 SECTION 2. 302.114 (9) (dm) of the statutes is created to read:

10 302.114 (9) (dm) A felony victim's testimony from a preliminary examination regarding the felony<sup>✓</sup> is admissible in any administrative hearing held under par. (am)<sup>✓</sup> to determine whether a person on extended supervision<sup>✓</sup> violated the conditions of extended supervision by committing the felony. If such testimony is available, a party to the administrative hearing may not subpoena the victim to appear at the administrative hearing unless the party shows good cause for requiring the victim's appearance.<sup>✓</sup>

17 SECTION 3. 304.06 (3b) of the statutes is created to read:

18 304.06 (3b) A felony victim's<sup>✓</sup> testimony from a preliminary examination regarding the felony is admissible in an administrative hearing under sub. (3) to determine whether a parolee<sup>✓</sup> violated a rule or condition of parole<sup>✓</sup> by committing the felony. If such testimony is available, a party to the administrative hearing may not

**ASSEMBLY BILL 431****SECTION 3**

1 subpoena the victim to appear at the administrative hearing unless the party shows  
2 good cause for requiring the victim's appearance.✓

3 **SECTION 4.** 973.10 (2r)✗ of the statutes is created to read:

4 973.10 (2r) A felony victim's testimony from a ✓ preliminary examination  
5 regarding the felony is admissible in an administrative hearing under ✓ sub. (2) to  
6 determine whether a probationer ✓ violated the conditions of his or her ✓ probation by  
7 committing the felony. If such testimony is available, a party to the administrative  
8 hearing ✓ may not subpoena the victim to appear at the administrative hearing unless  
9 the party shows good cause for requiring the victim's appearance.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to administrative hearings ✓ that are held on the  
12 effective date of this subsection. ✓

13 (END)

**Duerst, Christina**

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**From:** Egerer, Matt  
**Sent:** Friday, May 15, 2009 11:09 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2255/1 Topic: Admission of prior testimony in revocation hearing

Please Jacket LRB 09-2255/1 for the ASSEMBLY.